

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Plaintiff, who is proceeding *pro se*, is advised that Defendant Michael J. Astrue, Commissioner of Social Security, has moved to dismiss his Complaint for a lack of subject matter jurisdiction. Such motion is governed by Rule 12(b)(1) of the Federal Rules of Civil Procedure, which provides for dismissal where the Court lacks jurisdiction over the subject matter of the Complaint. The Defendant argues that the Plaintiff's Complaint should be dismissed for

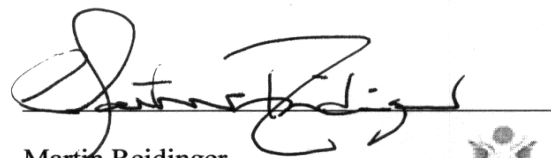
a lack of subject matter jurisdiction because the Plaintiff has failed to exhaust his administrative appellate remedies and has, therefore, not received a final decision of the Commissioner, which is a requirement to obtaining judicial review pursuant to 42 U.S.C. § 405(g). [Doc. 9].

The Plaintiff is advised that under the Local Civil Rules of this Court he has the right to file with the Clerk of this Court a written response to the Defendant's Motion, and the Plaintiff has until March 31, 2009 to make such a filing. While a Complaint may be dismissed even where a litigant responds, the Plaintiff is advised that if he fails to respond to the Defendant's Motion within the time allowed, his claim also may be summarily dismissed.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Plaintiff shall have until **March 31, 2009** to file a written response to the Defendant's Motion to Dismiss Plaintiff's Complaint For a Lack of Subject Matter Jurisdiction. [Doc. 8].

IT IS SO ORDERED.

Signed: March 13, 2009


Martin Reidinger
United States District Judge

